

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CHARLES JONES,

Plaintiff,

Case Number 2:09-CV-11283

Honorable Lawrence P. Zatkoff

v.

CORRECTIONAL OFFICER LEE,
CORRECTIONAL OFFICER MASSENGILL,
and MONROE COUNTY JAIL,

Respondents,

ORDER DENYING “MOTION TO STAY OF JUDGMENT”

On March 28, 2012, the Court entered an Order and Judgment adopting a report and recommendation and dismissing Plaintiff’s case. Plaintiff has since appealed the Court’s Order and Judgment. Related to Plaintiff’s appeal, he filed an application to proceed *in forma pauperis* on appeal and a motion to amend complaint, which the court denied. Currently pending before the Court is Plaintiff’s motion, entitled “Motion to Stay of Judgment pending Appeal under App. R. 8(1)(A) and Civ R. 60(b)(6)” [dkt 49]. Plaintiff requests that the Court stay its Judgment pending the resolution of Plaintiff’s appeal currently before the Sixth Circuit.

The legal authority relied on by Plaintiff provides no basis to support his request. Fed. R. Civ. P. 60(b)(6) provides that the Court may relieve a party from a final judgment for “any other reason that justifies relief.” Fed. R. Civ. P. 60(b)(6) does not state that the Court may stay a judgment. Even assuming that Rule 60 did apply, Plaintiff has provided no reason that justifies such relief. Moreover, Fed. App. R. 8(1)(A) merely provides the mechanism for which Plaintiff can seek a stay *before* the Sixth Circuit, stating that a party must first move in the district court for “a stay of

the judgment or order . . . pending appeal.” Fed. App. R. 8(1)(A), as with all Federal Rules of Appellate Procedure, governs procedure in the United States court of appeals, not the district courts. Fed. App. R. 1(a)(1). Anytime the rules require filing documents with the district court, the procedural rules followed by the district court apply. *Id.* at 1(a)(2). In this instance, Plaintiff has failed to set forth any district court procedure, or any legal authority for that matter, that justifies stay of the Judgment pending appeal.

Accordingly, Plaintiff’s “Motion to Stay of Judgment pending Appeal under App. R. 8(1)(A) and Civ R. 60(b)(6)” [dkt 49] is DENIED.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: June 18, 2012

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on June 18, 2012.

s/Marie E. Verlinde
Case Manager
(810) 984-3290